

SENATE BILL 622

E1, E2

(0lr2607)

ENROLLED BILL

— *Judicial Proceedings/Judiciary* —

Introduced by ~~Senator Jacobs~~ Senators Jacobs, Brochin, Haines, Mooney, Muse, and Stone Stone, Kittleman, Stoltzfus, Munson, Harris, Colburn, Simonaire, Pipkin, Brinkley, Reilly, Glassman, and Edwards

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Crimes – Sexual Offenses Against Children – Penalties**

3 FOR the purpose of increasing the maximum and mandatory minimum penalties for a
4 person convicted of rape in the second degree of a child under the age of 13
5 years; increasing the maximum and mandatory minimum penalties for a person
6 convicted of sexual offense in the second degree against a child under the age of
7 13 years; and generally relating to sexual offenses against children.

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Law
10 Section 3–304 and 3–306
11 Annotated Code of Maryland
12 (2002 Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Criminal Law**

4 3–304.

5 (a) A person may not engage in vaginal intercourse with another:

6 (1) by force, or the threat of force, without the consent of the other;

7 (2) if the victim is a mentally defective individual, a mentally
8 incapacitated individual, or a physically helpless individual, and the person
9 performing the act knows or reasonably should know that the victim is a mentally
10 defective individual, a mentally incapacitated individual, or a physically helpless
11 individual; or

12 (3) if the victim is under the age of 14 years, and the person
13 performing the act is at least 4 years older than the victim.

14 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of
15 this section involving a child under the age of 13 years.

16 (c) (1) Except as provided in paragraph (2) of this subsection, a person
17 who violates subsection (a) of this section is guilty of the felony of rape in the second
18 degree and on conviction is subject to imprisonment not exceeding 20 years.

19 (2) (i) Subject to subparagraph (iv) of this paragraph, a person 18
20 years of age or older who violates subsection (b) of this section is guilty of the felony of
21 rape in the second degree and on conviction is subject to imprisonment for not less
22 than [5] ~~20~~ 15 years and not exceeding [20 years] LIFE.

23 (ii) A court may not suspend any part of the mandatory
24 minimum sentence of [5] ~~20~~ 15 years.

25 (iii) The person is not eligible for parole during the mandatory
26 minimum sentence.

27 (iv) If the State fails to comply with subsection (d) of this section,
28 the mandatory minimum shall not apply.

29 (d) If the State intends to seek a sentence of imprisonment for not less than
30 [5] ~~20~~ 15 years under subsection (c)(2) of this section, the State shall notify the person
31 in writing of the State's intention at least 30 days before trial.

1 3-306.

2 (a) A person may not engage in a sexual act with another:

3 (1) by force, or the threat of force, without the consent of the other;

4 (2) if the victim is a mentally defective individual, a mentally
5 incapacitated individual, or a physically helpless individual, and the person
6 performing the sexual act knows or reasonably should know that the victim is a
7 mentally defective individual, a mentally incapacitated individual, or a physically
8 helpless individual; or

9 (3) if the victim is under the age of 14 years, and the person
10 performing the sexual act is at least 4 years older than the victim.

11 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of
12 this section involving a child under the age of 13 years.

13 (c) (1) Except as provided in paragraph (2) of this subsection, a person
14 who violates this section is guilty of the felony of sexual offense in the second degree
15 and on conviction is subject to imprisonment not exceeding 20 years.

16 (2) (i) Subject to subparagraph (iv) of this paragraph, a person 18
17 years of age or older who violates subsection (b) of this section is guilty of the felony of
18 sexual offense in the second degree and on conviction is subject to imprisonment for
19 not less than [5] ~~20~~ 15 years and not exceeding [20 years] LIFE.

20 (ii) A court may not suspend any part of the mandatory
21 minimum sentence of [5] ~~20~~ 15 years.

22 (iii) The person is not eligible for parole during the mandatory
23 minimum sentence.

24 (iv) If the State fails to comply with subsection (d) of this section,
25 the mandatory minimum shall not apply.

26 (d) If the State intends to seek a sentence of imprisonment for not less than
27 [5] ~~20~~ 15 years under subsection (c)(2) of this section, the State shall notify the person
28 in writing of the State's intention at least 30 days before trial.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2010.